

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of:)	
)	
City of Tacoma)	CS Docket No. 97-80
)	
Emergency Petition for Waiver of)	CSR-7141-Z
47 C.F.R. § 76.1204(a)(1))	
)	
To: Chief, Media Bureau)	



COMMENTS IN SUPPORT OF PETITION FOR WAIVER

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I. Introduction and summary.

ACA submits these Comments in support of the City of Tacoma's d/b/a Click! Network ("The City") Emergency Petition for Waiver of 47 C.F.R. § 76.1204(a)(1) ("Petition").¹

For the reasons set forth below, ACA supports the granting of The City's Petition on an expedited basis. ACA further recommends that the Commission adopt a streamlined and expedited waiver process for cable operators like The City which have committed to the conditions in the *Bend Broadband Order*.²

American Cable Association. ACA represents nearly 1,100 independent cable companies that serve more than 8 million cable subscribers, primarily in smaller markets and rural areas. ACA member systems are located in all 50 states and in virtually every congressional district. The companies range from family-run cable businesses serving a single town to multiple-system operators that focus on serving smaller markets. More than half of ACA's members serve fewer than 1,000 subscribers. All ACA members face the challenges of upgrading and operating broadband networks in lower-density markets.

¹ *In the Matter of City of Tacoma, d/b/a Click! Network ("The City") Emergency Petition for Waiver of 47 C.F.R. § 76.1204(a)(1)*, CSR-7141-Z, CS Docket No. 97-80 (filed March 7, 2007) ("Petition").

² *In the Matter of Bend Cable Communications, LLC, d/b/a BendBroadband, Request for Waiver of Section 76.1204(a)(1) of the Commission's Rules*, CSR-7057-Z, CS Docket No. 97-80, *Memorandum Opinion and Order* (rel. January 10, 2007) ("*BendBroadband Order*") at ¶ 27.

II. The City's *Petition* demonstrates good cause for the requested waiver.

The City has demonstrated good cause for its requested waiver. The waiver will allow The City to complete its digital transition and provide its subscribers with new advanced digital services.³

In the *Bend Broadband Order*, the Commission found that Bend Broadband's plan to migrate to an all-digital network by 2008 was good cause for a waiver of 47 C.F.R. § 76.1204(a)(1). Accordingly, the Commission granted BendBroadband a waiver of the integration ban contingent upon BendBroadband committing to the following conditions:

- Transitioning to an all-digital network within a clearly-defined timeframe, and submitting to the Commission a sworn declaration confirming the commitment;
- Notifying all analog customers at least six months in advance of the transition, and submitting an affidavit to the Commission that the notice had been given; and
- At least six months prior to the transition, acquiring or ordering a sufficient inventory of digital set-top boxes so that each of its subscribers could view its programming, and submitting an affidavit to the Commission confirming this inventory.⁴

The City, a competitive MVPD,⁵ meets all these conditions.

The City requests a short-term waiver to allow it to continue to transition all its services to digital (except for the services received by a small number of

³ *Petition* at 3-4.

⁴ *BendBroadband Order* at ¶ 27.

⁵ As noted in The City's *Petition*, it competes with Comcast in its franchise areas. *Petition* at 3.

predominately elderly Lifeline subscribers).⁶ The City already provides digital music and the HD signals of every broadcast station offered on its system.⁷ The planned digital conversion will allow The City to offer new interactive features and more robust high-speed Internet services to all its franchise areas.⁸ The City commits to making the transition by October 31, 2008.⁹ The City has already submitted an *Affidavit* with its *Petition*¹⁰ that includes the following commitments:

- To notify all of its analog customers of its plans to go digital at least six months in advance of the event;
- To submit a sworn declaration to the Commission confirming that such notice has been provided;
- To ensure that, at least six months prior to migrating to digital, it has inventory or has placed orders for enough digital receivers to ensure that each of its non-Lifeline customers can view its digital programming on at least one analog television set per home; and
- To submit a sworn declaration to the Commission confirming its inventory of set-top boxes.¹¹

The City's commitments provide consumers with even more services and choice than the conditions specified in the *BendBroadband Order*. The City will convert the majority of its subscribers to all-digital services and free up bandwidth for new interactive services and more robust advanced digital services, and The

⁶ *Petition* at 1-2.

⁷ *Id.* at 3.

⁸ *Id.* at 3-4.

⁹ *Id.* at 2.

¹⁰ *Wikstrom Affidavit* attached to the *Petition* as Exhibit 2.

¹¹ *Id.* at ¶ 11.

City will continue to provide a limited analog tier for those subscribers who cannot afford or do not want digital services.¹² On top of this, The City will continue to provide digital music and the HD signals of all the broadcast channels on its system.¹³

Consistent with the *Bend Broadband Order*, the Commission should grant The City's Petition on an expedited basis.

ACA further supports a streamlined and expedited approval process for cable operators who commit to the conditions specified in the *BendBroadband Order*. Consistent with the Commission's mandate to increase the availability of digital services to all Americans, an expedited approval process will increase the digital penetration in the markets where the waivers are sought.

III. Conclusion.

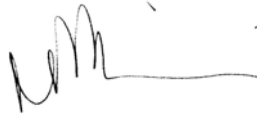
The City has committed to convert the vast majority of its subscribers to all-digital services by October 31, 2008 and to comply with the conditions specified in the *Bend Broadband Order*. The Commission should grant The City's *Petition* in an expedited manner to allow this MVPD competitor to provide its subscribers with the benefits of the digital transition. Further, the Commission should institute a streamlined and expedited waiver process for cable operators which commit to the conditions in the *BendBroadband Order*.

¹² Many ACA members report that their elderly and low-income subscribers prefer analog services to digital services. Analog services are technologically easier for subscribers to use, and are less expensive.

¹³ In The City's case, the planned conversion will provide it with enough bandwidth to provide HD channels, digital music, new interactive features and more robust Internet services. It does not need to eliminate completely its analog services to provide these digital services. *Petition* at note 4.

Respectfully submitted,

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